

**REMARKS**

Favorable reconsideration of this application, in light of the following discussion and in view of the present amendment, is respectfully requested. Claims 2, 3, 14-16, 43, and 44 are amended herein. Claims 2-44 are currently pending and under consideration in the present application, claims 12, 13, and 17-42 of which are withdrawn from consideration.

This amendment is believed to place the application in condition for allowance, and entry therefore is respectfully requested. In the alternative, entry of this amendment is requested as placing the application in better condition for appeal by, at least, reducing the number of issues outstanding.

**Entry of Amendment under 37 C.F.R. § 1.116**

The Applicant requests entry of this Rule 116 Response because the Examiner has newly cited a reference in rejecting the claims and the amendment places the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures (M.P.E.P.) sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The M.P.E.P. further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

**I. Rejection under 35 U.S.C. § 102**

In the Office Action, at pages 2-4, claims 2-11, 14-16, and 43-44 were rejected under 35 U.S.C. § 102(b) as being anticipated by Akasaka et al. (U.S. Patent No. 6,292,288).

Akasaka et al. does not discuss or suggest:

control means for controlling said pumping light source based on the optical powers of said plurality of reference lights, wherein the optical powers of the pumping lights are adjusted so that the average optical power of the reference lights is held to a predetermined value and the optical powers of the reference lights are equalized,

as recited in amended claim 2. In other words, the invention of claim 2 provides for controlling the pumping lights *based on* the optical powers of the reference lights so that the average optical power of the references lights is *held to a predetermined value* and the optical powers of

the reference lights are *equalized*. In this manner, the invention of claim 2 is capable of managing the optical power balance of a WDM light and the optical power of the entire WDM light in a system using Raman amplification. Akasaka et al., as relied on by the Examiner, does not provide for controlling the pumping lights based on the optical powers of the reference lights so that the average optical power of the reference lights is held to a predetermined value and the optical powers of the reference lights are equalized.

Therefore, Akasaka et al. does not discuss or suggest all of the features of the invention of amended claim 2, so that claim 2 patentably distinguishes over the reference relied upon. Accordingly, withdrawal of the § 102(b) rejection is respectfully requested.

Akasaka et al. does not discuss or suggest:

control means for controlling said pumping light source based on the optical powers of said plurality of reference lights, wherein the optical powers of the pumping lights are adjusted so that the average optical power of the reference lights is held to a predetermined value and the optical powers of the reference lights are equalized,

as recited in amended claim 3.

Akasaka et al. does not discuss or suggest:

said control means is configured to control said plurality of pumping lights based on the respective optical powers of said plurality of reference lights such that the average optical power of the reference lights is held to a predetermined value and the optical powers of the reference lights are equalized,

as recited in amended claim 14.

Akasaka et al. does not discuss or suggest:

control means for controlling said plurality of pumping lights based on the respective optical powers of said plurality of reference lights such that the average optical power of the reference lights is held to a predetermined value and the optical powers of the reference lights are equalized,

as recited in amended claim 15.

Akasaka et al. does not discuss or suggest:

controlling, by the Raman amplifier, said plurality of pumping lights based on the respective optical powers of said plurality of reference lights such that the average optical power of the reference lights is held to a predetermined value and the optical powers of the reference lights are equalized,

as recited in amended claim 16.

Akasaka et al. does not discuss or suggest:

said Raman amplifier controls said plurality of pumping lights based on the optical powers of said plurality of reference lights so that the average optical power of the reference lights is held to a predetermined value and the optical powers of the reference lights are equalized,

as recited in amended claim 43.

Akasaka et al. does not discuss or suggest:

said plurality of pumping lights are controlled based on the optical powers of said plurality of reference lights so that the average optical power of the reference lights is held to a predetermined value and the optical powers of the reference lights are equalized,

as recited in amended claim 44.

Therefore, claims 3, 14-16, and 43-44 patentably distinguish over the reference relied upon for at least the reasons noted above. Accordingly, withdrawal of these § 102(b) rejections is respectfully requested.

Claims 4-7 and 10-11 depend either directly or indirectly from amended claims 2 and/or 3, and include all the features of claims 2 and/or 3, plus additional features that are not discussed or suggested by the reference relied upon. Therefore, claims 4-7 and 10-11 patentably distinguish over the reference relied upon for at least the reasons noted above. Accordingly, withdrawal of these § 102(b) rejections is respectfully requested.

## **II. Rejection under 35 U.S.C. § 103**

In the Office Action, at pages 4-5, claims 8-9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Akasaka et al. in view of Sobe (U.S. Patent Application Pub. No. 2003/0117694).

As discussed above, Akasaka et al. does not discuss or suggest all of the features of the inventions of amended claims 2 or 3. Sobe fails to make up for this deficiency in Akasaka et al. Claims 8-9 depend either directly or indirectly from amended claims 2 and 3, and include all the features of claims 2 or 3, plus additional features that are not discussed or suggested by the references relied upon. Therefore, claims 8-9 patentably distinguish over the references relied

upon for at least the reasons noted above. Accordingly, withdrawal of the § 103(a) rejections is respectfully requested.

## CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

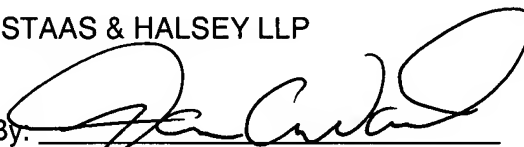
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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